



July 13, 2020

VIA ECF

Hon. Judge Barbara C. Moses
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: Nixon v. Performance Apparel Corp.; Case No. 1:20-cv-02250-PAE-BCM

To the Honorable Judge Moses,

The undersigned represents Plaintiff Donald Nixon (hereinafter "Plaintiff") in the above-referenced matter.

This Letter is submitted in response to the Court's June 29, 2020, Order directing Plaintiff to Show Cause why this action should not be dismissed for failure to serve Defendant in the allotted time.

By way of background, this case was filed on March 13, 2020. The Summons was subsequently issued on March 16, 2020 and sent to our process server to effectuate Service. However, about four days later Governor Cuomo issued his "NYS on Pause" Executive Order and mandated closure of all non-essential businesses statewide. As a result, our process servers were operating on a reduced schedule with limited personnel and were ultimately unsuccessful in effectuating service on Defendant.

Further, our firm has had difficulty in contacting the process server to receive a timely update on the Service of this matter during the last two months. However, since the Court's June 29, 2020 Order, Plaintiff has attempted to contact the process server again, but to no avail. To rectify this error, Plaintiff has reached out to another process server to effectuate Service on Defendant. Thus, Plaintiff is respectfully requesting an additional 21-days to effectuate Service and file an Affidavit of Service with the Court.

The undersigned sincerely apologizes for the inconvenience caused to the Court, and thanks the Court in advance for the consideration of Plaintiff's request.

Application GRANTED. No later than **August 3, 2020**, plaintiff shall serve the complaint on defendant and file proof of such service. SO ORDERED.

Barbara Moses, U.S.M.J.
July 14, 2020

Respectfully submitted,

/s/ Jonathan Shalom
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